

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
WESTERN DIVISION AT DAYTON**

Caleb Whitfield,

Plaintiff,

Case No. 3:24-cv-244

v.

District Judge Thomas M. Rose

Sergeant Evers, *et al.*,

Magistrate Judge Karen L. Litkovitz

Defendants.

ORDER ADOPTING REPORT AND RECOMMENDATION (DOC. 6)

Pending before the Court is a Report and Recommendation (Doc. 6) from Magistrate Judge Karen L. Litkowitz to which Plaintiff Caleb Whitfield (Doc. 9) and Defendants Sergeants Evers and Eversole (Doc. 11) have objected. Plaintiff, an inmate currently at the Toledo Correctional Institution, in Toledo, Ohio, has brought a *pro se* civil rights action for alleged violations of his rights while he was a pretrial detainee at the Montgomery County Jail in Dayton, Ohio. Upon a *sua sponte* review of the complaint to determine whether the complaint or any portion of it should be dismissed because it is frivolous, malicious, fails to

state a claim upon which relief may be granted or seeks monetary relief from a defendant who is immune from such relief, *see* Prison Litigation Reform Act of 1995 § 804, 28 U.S.C. § 1915(e)(2)(B); § 805, 28 U.S.C. § 1915A(b), Magistrate Judge Karen L. Litkovitz recommended that the Court:

1. **DISMISS with prejudice** plaintiff's complaint, with the exception of his first group of claims against defendant Sergeants Evers and Eversole in their individual capacities. 28 U.S.C. §§ 1915(e)(2)(B); 1915A(b).
2. The Court certify pursuant to 28 U.S.C. § 1915(e)(2)(B) that ... an appeal of any Order adopting this Report and Recommendation would not be taken in good faith. See *McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

(*See* Doc. 10, PageID 12.)

The Court has reviewed the findings of the Magistrate Judge and considered the objections filed by Plaintiff (Doc. 9) and Defendants. (Doc. 11). Defendants objection decries that the complaint lacks information including dates that would inform them of the claims against them. In response, Plaintiff has filed a Motion to Amend/Correct the Complaint (Doc. 11) offering greater detail. Plaintiff's Motion remains pending before the Magistrate Judge who will rule on it initially. For now, it renders Defendants' objections (Doc. 11) **MOOT**.

Pursuant to 28 U.S.C. § 636(b) and Fed. R. Civ. P. 72(b), this Court has made a *de novo* review of the record in this case. Upon consideration of the foregoing, the Court **ADOPTS** the Report and Recommendations (Doc. 6) in its entirety. The Court **DISMISSES with prejudice** plaintiff's complaint, with the exception of his first group of claims against defendant Sergeants Evers and Eversole in their individual capacities. The Court

CERTIFIES pursuant to 28 U.S.C. § 1915(e)(2)(B) that an appeal of this Order would not be taken in good faith. *See McGore v. Wrigglesworth*, 114 F.3d 601 (6th Cir. 1997).

DONE and **ORDERED** this Monday, February 10, 2025.

s/Thomas M. Rose

THOMAS M. ROSE
UNITED STATES DISTRICT JUDGE